

Calendar No. 796

106TH CONGRESS
2D SESSION**S. 2283****[Report No. 106–406]**

To amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2000

Mr. CAMPBELL (for himself, Mr. JOHNSON, and Mr. INOUE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

SEPTEMBER 11, 2000

Reported by Mr. CAMPBELL, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Transportation Equity Act for the 21st Century to make certain amendments with respect to Indian tribes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Indian Tribal Surface
5 Transportation Act of 2000”.

1 **SEC. 2. AMENDMENTS RELATING TO INDIAN TRIBES.**

2 (a) **OBLIGATION LIMITATION.**—Section 1102(b) of
3 the Transportation Equity Act for the 21st Century (23
4 U.S.C. 104 note) is amended—

5 (1) in paragraph (7), by striking “and” at the
6 end;

7 (2) in paragraph (8), by striking the period and
8 inserting “; and”; and

9 (3) by adding at the end thereof the following:
10 “(9) under section 1101(a)(8)(A).”.

11 (b) **PILOT PROGRAM.**—Section 202(d)(3) of title 23,
12 United States Code, is amended by adding at the end the
13 following:

14 “(C) **FEDERAL LANDS HIGHWAY PROGRAM**
15 **DEMONSTRATION PROJECT.**—

16 “(i) **IN GENERAL.**—The Secretary
17 shall establish a demonstration project
18 under which all funds made available
19 under this title for Indian reservation
20 roads and for highway bridges located on
21 Indian reservation roads as provided for in
22 subparagraph (A), shall be made available,
23 upon request of the Indian tribal govern-
24 ment involved, to the Indian tribal govern-
25 ment for contracts and agreements for the
26 planning, research, engineering, and con-

struction described in such subparagraph
in accordance with the Indian Self-Deter-
mination and Education Assistance Act.

“(ii) ~~EXCLUSION OF AGENCY PARTICI-
PATION.~~—In accordance with subpara-
graph (B), all funds for Indian reservation
roads and for highway bridges located on
Indian reservation roads to which clause
(i) applies, shall be paid without regard to
the organizational level at which the Fed-
eral lands highway program has previously
carried out the programs, functions, serv-
ices, or activities involved.

“(iii) ~~SELECTION OF PARTICIPATING
TRIBES.~~—

“(I) ~~PARTICIPANTS.~~—

“(aa) ~~IN GENERAL.~~—The
Secretary may select not to ex-
ceed 12 Indian tribes in each fis-
cal year from the applicant pool
described in subclause (II) to
participate in the demonstration
project carried out under clause
(i).

1 “(bb) CONSORTIA.—Two or
 2 more Indian tribes that are oth-
 3 erwise eligible to participate in a
 4 program or activity to which this
 5 title applies may form a consor-
 6 tium to be considered as a single
 7 tribe for purposes of becoming
 8 part of the applicant pool under
 9 subelause (II).

10 “(II) APPLICANT POOL.—The ap-
 11 plicant pool described in this sub-
 12 elause shall consist of each Indian
 13 tribe (or consortium) that—

14 “(aa) has successfully com-
 15 pleted the planning phase de-
 16 scribed in subelause (III);

17 “(bb) has requested partici-
 18 pation in the demonstration
 19 project under this subparagraph
 20 through the adoption of a resolu-
 21 tion or other official action by
 22 the tribal governing body; and

23 “(cc) has, during the 3-fiscal
 24 year period immediately pre-
 25 ceding the fiscal year for which

participation under this subparagraph is being requested, demonstrated financial stability and financial management capability through a showing of no material audit exceptions by the Indian tribe during such period.

“(III) PLANNING PHASE.—An Indian tribe (or consortium) requesting participation in the project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation. The tribe (or consortium) shall be eligible to receive a grant under this subclause to plan and negotiate participation in such project.”.

(e) ADMINISTRATION.—Section 202 of title 23, United States Code, is amended by adding at the end thereof the following:

“(f) INDIAN RESERVATION ROAD, ADMINISTRATION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, not to exceed 6 percent of the con-

tract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs shall be used to pay the administrative expenses of the Bureau for the Indian reservation roads program and the administrative expenses related to individual projects that are associated with such program. Such administrative funds shall be made available to an Indian tribal government, upon the request of the government, to be used for the associated administrative functions assumed by the Indian tribe under contracts and agreements entered into pursuant to the Indian Self-Determination and Education Assistance Act.

“(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence construction that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act only if the Indian tribe or tribal organization has—

“(A) provided assurances in the contract or agreement that the construction will meet or exceed proper health and safety standards;

“(B) obtained the advance review of the plans and specifications from a licensed profes-

1 sional who has certified that the plans and
 2 specifications meet or exceed the proper health
 3 and safety standards; and

4 “(C) provided a copy of the certification
 5 under subparagraph (B) to the Bureau of In-
 6 dian Affairs.”.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Indian Tribal Surface*
 9 *Transportation Act of 2000”.*

10 **SEC. 2. AMENDMENTS RELATING TO INDIAN TRIBES.**

11 (a) *OBLIGATION LIMITATION.*—Section 1102(c)(1) of
 12 *the Transportation Equity Act for the 21st Century (23*
 13 *U.S.C. 104 note) is amended—*

14 (1) *by striking “Code, and” and inserting*
 15 *“Code,”; and*

16 (2) *by inserting before the semicolon the fol-*
 17 *lowing: “, and for each of fiscal years 2001 through*
 18 *2003, amounts authorized for Indian reservation*
 19 *roads under section 204 of title 23, United States*
 20 *Code”.*

21 (b) *PILOT PROGRAM.*—Section 202(d)(3) of title 23,
 22 *United States Code, is amended by adding at the end the*
 23 *following:*

24 “(C) *FEDERAL LANDS HIGHWAY PROGRAM*
 25 *DEMONSTRATION PROJECT.*—

1 “(i) *IN GENERAL.*—*The Secretary shall*
2 *establish a demonstration project under*
3 *which all funds made available under this*
4 *title for Indian reservation roads and for*
5 *highway bridges located on Indian reserva-*
6 *tion roads as provided for in subparagraph*
7 *(A), shall be made available, upon request of*
8 *the Indian tribal government involved, to*
9 *the Indian tribal government for contracts*
10 *and agreements for the planning, research,*
11 *engineering, and construction described in*
12 *such subparagraph in accordance with the*
13 *Indian Self-Determination and Education*
14 *Assistance Act.*

15 “(ii) *EXCLUSION OF AGENCY PARTICI-*
16 *PATION.*—*In accordance with subparagraph*
17 *(B), all funds for Indian reservation roads*
18 *and for highway bridges located on Indian*
19 *reservation roads to which clause (i) ap-*
20 *plies, shall be paid without regard to the or-*
21 *ganizational level at which the Federal*
22 *lands highway program has previously car-*
23 *ried out the programs, functions, services, or*
24 *activities involved.*

1 “(iii) *SELECTION OF PARTICIPATING*
 2 *TRIBES.*—

3 “(I) *PARTICIPANTS.*—

4 “(aa) *IN GENERAL.*—*The*
 5 *Secretary shall select 12 geo-*
 6 *graphically diverse Indian tribes*
 7 *in each fiscal year from the appli-*
 8 *cant pool described in subclause*
 9 *(II) to participate in the dem-*
 10 *onstration project carried out*
 11 *under clause (i).*

12 “(bb) *CONSORTIA.*—*Two or*
 13 *more Indian tribes that are other-*
 14 *wise eligible to participate in a*
 15 *program or activity to which this*
 16 *title applies may form a consor-*
 17 *tium to be considered as a single*
 18 *tribe for purposes of becoming*
 19 *part of the applicant pool under*
 20 *subclause (II).*

21 “(cc) *FUNDING.*—*An Indian*
 22 *tribe participating in the pilot*
 23 *program under this subparagraph*
 24 *shall receive funding in an*
 25 *amount equivalent to the funding*

1 that such tribe would otherwise re-
2 ceive pursuant to the funding for-
3 mula established under section
4 1115(b) of the Transportation Eq-
5 uity Act for the 21st Century,
6 plus an additional percentage of
7 such amount, such additional per-
8 centage to be equivalent to the
9 percentage of funds withheld dur-
10 ing the fiscal year involved for the
11 road program management costs
12 of the Bureau of Indian Affairs
13 under section 202(f)(1) of title 23,
14 United States Code.

15 “(II) *APPLICANT POOL*.—The ap-
16 plicant pool described in this subclause
17 shall consist of each Indian tribe (or
18 consortium) that—

19 “(aa) has successfully com-
20 pleted the planning phase de-
21 scribed in subclause (III);

22 “(bb) has requested partici-
23 pation in the demonstration
24 project under this subparagraph
25 through the adoption of a resolu-

tion or other official action by the
tribal governing body; and

“(cc) has, during the 3-fiscal
year period immediately pre-
ceding the fiscal year for which
participation under this subpara-
graph is being requested, dem-
onstrated financial stability and
financial management capability
through a showing of no material
audit exceptions by the Indian
tribe during such period.

“(III) CRITERIA FOR DETER-
MINING FINANCIAL STABILITY AND FI-
NANCIAL MANAGEMENT CAPACITY.—For
purposes of this subparagraph, evi-
dence that, during the 3-year period
referred to in subclause (II)(cc), an In-
dian tribe had no uncorrected signifi-
cant and material audit exceptions in
the required annual audit of the In-
dian tribe’s self-determination con-
tracts or self-governance funding agree-
ments with any Federal agency shall

1 *be conclusive evidence of the required*
 2 *stability and capability.*

3 “(IV) *PLANNING PHASE.*—*An In-*
 4 *dian tribe (or consortium) requesting*
 5 *participation in the project under this*
 6 *subparagraph shall complete a plan-*
 7 *ning phase that shall include legal and*
 8 *budgetary research and internal tribal*
 9 *government and organization prepara-*
 10 *tion. The tribe (or consortium) shall be*
 11 *eligible to receive a grant under this*
 12 *subclause to plan and negotiate par-*
 13 *ticipation in such project.”.*

14 (c) *ADMINISTRATION.*—*Section 202 of title 23, United*
 15 *States Code, is amended by adding at the end thereof the*
 16 *following:*

17 “(f) *INDIAN RESERVATION ROAD, ADMINISTRATION.*—
 18 “(1) *IN GENERAL.*—*Notwithstanding any other*
 19 *provision of law, not to exceed 6 percent of the con-*
 20 *tract authority amounts made available from the*
 21 *Highway Trust Fund to the Bureau of Indian Affairs*
 22 *shall be used to pay the administrative expenses of the*
 23 *Bureau for the Indian reservation roads program and*
 24 *the administrative expenses related to individual*
 25 *projects that are associated with such program. Such*

1 *administrative funds shall be made available to an*
 2 *Indian tribal government, upon the request of the gov-*
 3 *ernment, to be used for the associated administrative*
 4 *functions assumed by the Indian tribe under contracts*
 5 *and agreements entered into pursuant to the Indian*
 6 *Self-Determination and Education Assistance Act.*

7 “(2) *HEALTH AND SAFETY ASSURANCES.*—Not-
 8 *withstanding any other provision of law, an Indian*
 9 *tribe or tribal organization may commence road and*
 10 *bridge construction under the Transportation Equity*
 11 *Act for the 21st Century (25 U.S.C. 104) that is fund-*
 12 *ed through a contract or agreement under the Indian*
 13 *Self-Determination and Education Assistance Act so*
 14 *long as the Indian tribe or tribal organization has—*

15 “(A) *provided assurances in the contract or*
 16 *agreement that the construction will meet or ex-*
 17 *ceed proper health and safety standards;*

18 “(B) *obtained the advance review of the*
 19 *plans and specifications from a licensed profes-*
 20 *sional who has certified that the plans and speci-*
 21 *fications meet or exceed the proper health and*
 22 *safety standards; and*

23 “(C) *provided a copy of the certification*
 24 *under subparagraph (B) to the Bureau of Indian*
 25 *Affairs.”.*

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